

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of eNetworks, LLC for a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc. and full facilities-based and resold interexchange services on a statewide basis.

Application 16-06-004
(Filed June 7, 2016)

**DECISION GRANTING eNETWORKS, LLC A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND
FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND
INTEREXCHANGE SERVICE**

Table of Contents

Title	Page
DECISION GRANTING eNETWORKS, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE	1
Summary	2
1. Background.....	2
2. Jurisdiction.....	3
3. California Environmental Quality Act (CEQA).....	3
4. Financial Qualifications	8
5. Technical Qualifications	9
6. Tariffs.....	10
7. Map of Service Territory.....	10
8. Rule 3.1(i) Statement (Include for Full Facilities Only).....	11
9. Expected Customer Base	11
10. Request for Treatment as a Non-dominant Carrier.....	11
11. Safety Considerations	12
12. Conclusion.....	12
13. Request to File Under Seal	13
14. Categorization and Need for Hearing.....	13
15. Waiver of Comment Period	14
16. Assignment of Proceeding	14
Findings of Fact.....	14
Conclusions of Law	16
ORDER	17

**DECISION GRANTING eNETWORKS, LLC A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND
FULL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND
INTEREXCHANGE SERVICE**

Summary

Pursuant to Public Utilities Code § 1001, we grant eNetworks, LLC (eNetworks), a Certificate of Public Convenience And Necessity to provide resold and full facilities-based local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

1. Background

On June 7, 2016, eNetworks, LLC (eNetworks), a limited liability corporation authorized to do business in California filed an application for a Certificate of Public Convenience and Necessity (CPCN) to provide resold and full facilities-based telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Frontier California Inc. (Frontier California)¹, Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier Communications), and Consolidated Communications of California Company (Consolidated, formerly SureWest Telephone²) and interexchange services in California.

¹ Frontier California was formerly Verizon California, Inc. (Verizon). As of April 1, 2016, Verizon's operations in California were acquired and are now operated by Frontier California, Inc., pursuant to D.15-12-005.

² SureWest Telephone was acquired by Consolidated Communications Inc. in 2012, pursuant to D.12-06-004, and SureWest Telephone changed its name to Consolidated Communications of California Company as of January 1, 2016.

eNetworks will rely on existing facilities obtained from other carriers and utilities. In addition, eNetworks will construct its own facilities in many cases. eNetworks expects that any outside plant construction ordinarily would be small in scale, consisting of construction of relatively short conduit routes, installation of poles where existing facilities are inadequate, and other above-ground facilities. Construction would generally occur on existing roadways or other previously developed and disturbed rights-of-way.

eNetworks principal place of business is located at One Mallard Pointe, 11020 David Taylor Drive, Suite 103, Charlotte, North Carolina, 28262.

2. Jurisdiction

Public Utilities Code Section (Pub. Util. Code §) 216(a) defines the term “Public utility” to include a “telephone corporation,” which in turn is defined in Public Utilities Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

eNetworks intends to provide infrastructure facilities (such as dark fiber and metro cell nodes) for use in connection with the transport and transmission of communications by wireless carriers. eNetworks is a telephone corporation and a public utility subject to our jurisdiction.

3. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4³ of the Commission’s Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and

³ Unless otherwise noted, items labeled “Rule” are from the Commission’s Rules of Practice and Procedure.

environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In its application, eNetworks states that its proposed construction activities will generally include the installation of relatively short conduit routes, installations of poles where existing facilities are inadequate, and other above-ground facilities.

The activities which eNetworks describes fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. 14 CCR § 15301.
- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. 14 CCR § 15303.

eNetworks proposed activities involve construction of reasonably short utility extensions (Class 3). In order to provide its service, eNetworks plans to install its conduit routes and installations of poles where existing facilities are inadequate, and other above-ground facilities. According to eNetworks, the infrastructure facilities equipment will be placed in existing roadways or other previously developed and disturbed rights of way. eNetworks cannot identify, at this time, the specific locations of the infrastructure facilities that it will construct. Exemption of these activities are consistent with Commission precedent. eNetworks proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from

CEQA. *See, e.g.*, D.06-04-063 (*ClearLinx Network Corporation*); D.06-04-067 (*CA-CLEC LLC*).

eNetworks requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which if undertaken as eNetworks describes, should be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable eNetworks to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of eNetworks claimed CEQA exemptions for proposed construction projects:

- eNetworks will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;

- Biological resources; and
- Current land use and zoning.
- A construction workplan, to include:
 - Commission Preconstruction Survey Checklist – Archaeological Resources;
 - Commission Preconstruction Survey Checklist – Biological Resources;
 - A detailed schedule of construction activities, including site restoration activities;
 - A description of construction/installation techniques;
 - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review eNetworks submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of eNetworks submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and find that:

- eNetworks proposed facilities-based project activities are very limited;

- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to eNetworks facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables eNetworks to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve eNetworks proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to eNetworks full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

- If the Energy Division disapproves eNetworks claimed CEQA exemption(s) and issues a letter of denial to eNetworks, eNetworks must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

eNetworks shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking (R.) 95-04-043/Investigation (I.) 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

4. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.⁴ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.⁵ In the application, eNetworks provided audited financial statements of its affiliated guarantor, Essentia, Inc., a corporation, that \$100,000 would be available to eNetworks for one year following certification. Since eNetworks has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. The eNetworks financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

eNetworks proposed to initially interconnect with AT&T, Frontier California, Frontier Communications, and Consolidated. In addition to the \$100,000 discussed above, eNetworks stated that no deposit is required by

⁴ The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

⁵ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

AT&T, Frontier California, Frontier Communications, and Consolidated. Therefore, no additional resources are required at this time to cover deposits.

5. Technical Qualifications

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁶ eNetworks supplied biographical information on its management in Exhibit A to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, eNetworks verified that no one associated with or employed by eNetworks as an affiliate, officer, director, partner, or owner of more than 10% of eNetworks: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of sections 17000 et seq., 17200 et seq., or 17500 et seq. of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been

⁶ D. 95-12-056 at Appendix C, Rule 4.A.

found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

For the above reasons, we find that eNetworks is in compliance with the requirements of D.95-12-056.

6. Tariffs

eNetworks has requested detariffed status and may be exempt from the requirement to file tariffs provided that eNetworks complies with the consumer protection rules identified in D.98-08-031. eNetworks will provide its services and facilities on an individually-negotiated contract basis. eNetworks will not provide switched access service or basic single-line residential service. Accordingly, no tariff is required.

7. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁷ In its Response, eNetworks provided a map of the location of its proposed service territory, in compliance with this requirement.

⁷ D.95-12-056 at Appendix C, Rule 4.E.

8. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. eNetworks states that it is not aware of any reportable matters pursuant to General Order 104-A, Section 2. eNetworks, therefore, has nothing to report under this rule.

On a going-forward basis, though, eNetworks must file all reports required of a public utility under Commission jurisdiction.

9. Expected Customer Base

eNetworks estimates that it will serve two customers during the first year and five customers during the fifth year of operations under its requested authority of its application. Therefore, eNetworks has complied with this requirement.

10. Request for Treatment as a Non-dominant Carrier

Applicant requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for non-dominant interexchange carrier status, provided that they follow all rules detailed in the above referenced decisions.⁸

⁸ While the Commission has granted exemption from §§ 816 – 830 to others, exemption from §§ 851 – 854 has not been granted previously and is not granted here.

11. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. We feel satisfied that eNetworks will meet the Commission's minimum safety goals and expectations of CLEC's because: (1) eNetworks has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) eNetworks is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

12. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant eNetworks a CPCN to provide full facilities-based and resold local exchange telecommunications service in the service territory of AT&T, Frontier California, Frontier Communications, and Consolidated and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to eNetworks and corresponding obligations. eNetworks receives authority to operate in the prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of

way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision. In return, eNetworks is obligated to comply with all applicable Public Utilities Codes and Commission Rules, GOs, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, eNetworks is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code Section 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

13. Request to File Under Seal

Pursuant to Rule 11.4 of the Commission's Rules, eNetworks has filed motions for leave to file Exhibit F to the application as confidential materials under seal. eNetworks represents that the information is sensitive, and disclosure could place eNetworks at an unfair business disadvantage. We have granted similar requests in the past and do so here.

14. Categorization and Need for Hearing

In Resolution ALJ 176-3380, dated June 23, 2016 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given

these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

15. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

16. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and John A. Mikita is the assigned ALJ in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on June 9, 2016. No protests have been filed. A hearing is not required.

2. eNetworks is a telephone corporation and a public utility as defined in Pub. Util. Code Sections 234(a) and 216(a).

3. The Commission is the Lead Agency for this project under CEQA.

4. eNetworks proposed construction activity falls within one or more CEQA categorical exemptions.

5. eNetworks has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

6. eNetworks has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.

7. eNetworks management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

8. No one associated with or employed by eNetworks as an affiliate, officer, director, partner, agent, or owner of more than 10% of eNetworks: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of sections 17000 *et seq.*, 17200 *et seq.*, or 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

9. eNetworks requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

10. eNetworks provided a map of the location of its proposed service territory.

11. eNetworks has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code §1001, provide a statement regarding compliance with General Order (GO) 104-A, Section 2.

12. eNetworks provided an estimate of its customer base for the first and fifth year of operation.

13. Pursuant to Rule 11.4, eNetworks filed motions for leave to file confidential materials under seal, including non-public financial statements and a bank account statement containing confidential information of eNetworks affiliate, Essentia, Inc.

Conclusions of Law

1. eNetworks should be granted a CPCN to provide resold and full facilities-based local exchange telecommunications service in the service territories of AT&T, Frontier California, Frontier Communications, Consolidated and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. eNetworks should be allowed to use the Energy Division 21-day CEQA exemption process.

3. eNetworks, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and Statutes that pertain to California public utilities.

4. eNetworks, should be granted an exemption from the requirement to file tariffs.

5. eNetworks motion to file under seal its Exhibit F to the application, should be granted for three years.

6. eNetworks should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to eNetworks to provide resold and full facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, and interexchange service in California, subject to the terms and conditions set forth below.

2. The corporate identification number assigned to eNetworks, U-7313-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. The certificate granted by this order will expire if not exercised within 12 months of the effective date of this order.

4. eNetworks must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, eNetworks must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1

advice letter annually, but not later than March 31, with a copy of the executed bond.

5. eNetworks must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

6. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, eNetworks is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. eNetworks must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

8. eNetworks must pay the public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

9. Applicant must pay a minimum annual user fee of \$100 or 0.23% of gross intrastate revenue, whichever is greater, as specified in Attachment B. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

10. Prior to initiating service, eNetworks must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

11. Prior to initiating service, eNetworks must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

12. eNetworks must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

13. eNetworks must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

14. eNetworks must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

15. The staff of the Commission's Energy Division is authorized to review, process, and act upon eNetworks requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

16. If eNetworks wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental

Quality Act, eNetworks shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act using the following procedure set forth in Ordering Paragraph 16.

17. eNetworks will provide the Commission's Energy Division with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;
 - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
 - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.

- f. The Energy Division will then review the submittal and notify eNetworks of either its approval or its denial of eNetworks claim for exemption from California Environmental Quality Act review within 21 days from the time that eNetworks submittal is complete.
- g. If the Energy Division approves eNetworks claimed California Environmental Quality Act exemption(s), the staff will prepare a NTP and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- h. If the Energy Division disapproves eNetworks claimed California Environmental Quality Act exemptions, the staff will issue to eNetworks a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.
- i. If the Energy Division disapproves eNetworks claimed California Environmental Quality Act exemption(s), eNetworks shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities-based construction activities.

18. eNetworks motion to file under seal its Exhibit F is granted for a period of three years after the date of this order. During this three year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If eNetworks believes that it is necessary for this information to remain under seal for longer than three years, eNetworks may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

19. Application 16-06-004 is closed.

This order is effective today.

Dated, _____, at San Francisco, California.

ATTACHMENT A

This Attachment is Intentionally Left Blank

(END OF ATTACHMENT A)

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,⁹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges and rules authorized will expire if not exercised within 12 months of the date of this order.

3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

- a. The Universal Lifeline Telephone Service Trust
Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices
Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3;
D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191,
App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88,
App. B, Rule 8.G).

⁹ Written acceptance filed in this docket does not reopen the proceeding.

- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at:

<http://www.cpuc.ca.gov/General.aspx?id=1124>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. Instructions for reporting and filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. Applicant is a competitive local exchange carrier (CLC), the effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. Applicant is a non-dominant interexchange carrier (NDIEC), the effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicant must file a service area map as part of its initial tariff.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact

Information Update Request” found at

<http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

11. Applicant must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. In the event Applicant’s books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission’s offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

14. Applicant must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

15. Applicant must file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

16. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

17. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

18. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late, the

Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

19. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure

20. Applicant is exempt from Pub. Util. Code §§ 816-830.

21. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C**ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
- b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

(END OF ATTACHMENT C)

ATTACHMENT D**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

An original and a machine readable, copy using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in

turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT D)